

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

MAYUR RAJENDRABHAI PATEL

Petitioner,

v.

U.S. DEPARTMENT OF HOMELAND  
SECURITY, et. al,

Respondents.

) CASE NO.

)

) EMERGENCY MOTION FOR TEMPORARY  
) RESTRAINING ORDER AND STAY OF  
) REMOVAL

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) AGENCY FILE No. A 201 602 048

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**EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND STAY OF  
REMOVAL**

**ORDER (PROPOSED  
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**BASIS FOR MOTION**

The detailed facts underlying this motion are stated in the Petition for Writ of Habeas Corpus concurrently filed with the Court today, December 9, 2019, and the most salient points directly related to this Motion for Issuance of an Emergency Temporary Restraining Order and a Preliminary Injunction are as stated below.

Petitioner Tushar Bharatbhai Patel is a native and citizen of India, is being held in Tacoma, Washington at the Northwest Detention Center, a privately owned and operated immigration detention facility run by the GEO Group on behalf of U.S. Immigration and Customs Enforcement. Mr. Patel has filed a Petition for Writ of Habeas Corpus under the Suspension Clause, U.S. Const. art 1. § 9, cl.2, to challenge the procedures that led to the issuance of an expedited removal order against him, and his continued detention.

On September 24, 2019, an Immigration Judge at the Northwest Detention Center issued a Final Order in Credible Fear Review Proceedings (expedited removal proceedings) that ordered Mr. Patel to be removed from the United States. The order states, "This is a final order. There is no appeal available." His only avenue to obtain review of the expedited order of removal at this time is through habeas corpus proceedings. No other appeals or petitions have been filed in any other court.

Mr. Patel is facing imminent deportation and removal to India. Mr. Patel was informed this afternoon he is being deported this evening. Mr. Patel fears persecution and torture and fears for his life and safety if he is returned to India. Mr. Patel submits that he can show that his 4<sup>th</sup> and 5<sup>th</sup> amendment rights were violated on account of acts taken by the Respondents in disregard of substantive and procedural due process, and that he is being held,

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1 and was ordered removed, without having had a “meaningful opportunity to demonstrate that  
2 [he] is being held pursuant to ‘the erroneous application or interpretation’ of relevant law.”  
3 *Boumediene v. Bush*, 553 U.S. 723, 779 (2008) (quoting *INS v. St. Cyr*, 53 U.S. 289, 302 (2001)).  
4 Mr. Patel also moves the court to issue an emergency order against the Respondents staying all  
5 deportation and removal actions against him, and to prevent his transfer from the jurisdiction of  
6 this court, such deportation, removal, and transfer being pursuant to a disregard of fundamental  
7 rights including the failure to provide him with a fair hearing and review before an Immigration  
8 Judge of a Negative Credible Fear Determination made by an Office of the San Francisco  
9 Asylum Office of U.S. Citizenship and Immigration Services, U.S. Department of Homeland  
10 Security.  
11

12 This Court has jurisdiction over the underlying habeas corpus proceedings pursuant to 28  
13 U.S.C. § 1331 (federal question jurisdiction); 28 U.S.C. § 1361 (jurisdiction over actions for  
14 mandamus to compel an officer of the United States to perform his or her duty); and 28 U.S.C. §  
15 2241 (jurisdiction over habeas corpus actions).

16 This court has jurisdiction to review Credible Fear Review determinations made by an  
17 Immigration Judge in habeas proceedings under the Suspension Clause, U.S. Const. art. I. § 9, cl.  
18 2. *Thuraissigiam v. U.S. Department of Homeland Security*, et. al, 917 F.3d 1097 (9<sup>th</sup> Cir. 2019).

19 Venue in Western District of Washington is appropriate under 28 U.S.C. § 1291(e)(I) and  
20 (2) because Petitioner is presently detained at the Northwest Detention Center in Tacoma,  
21 Washington, and Respondents are stationed in, have offices in, and/or operate in this district.  
22  
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1 Mr. Patel seeks a TRO and Stay of Removal to maintain the status quo and bar  
2 Respondents from removing him before this court has had an opportunity to consider and rule on  
3 the merits of his petition for writ of habeas corpus.

4 Mr. Patel has been informed that his deportation and removal is imminent, and he  
5 understands that to mean that he will be first transferred out of the Northwest Detention Center  
6 and then deported and removed tonight.

7  
8 Petitioner Tushar Bharatbhai Patel, pursuant to Rule 65 of the Federal Rules of Civil  
9 Procedure, moves the Court for issuance of an Emergency Temporary Restraining Order and  
10 Stay of Removal:

11 1. Enjoining and restraining the Respondents and all of their respective officers, agents,  
12 servants, employees, attorneys, and persons acting on their behalf in concert or in  
13 participation with them from:

14 (a) Removing/deporting Mr. Patel from the United States while his habeas corpus  
15 proceedings are pending;

16 (b) Transferring Mr. Patel from the Northwest Detention center in Tacoma, Washington to  
17 any other facility during the pendency of these proceedings.

18 2. We submit that:

19 (a) There is a likelihood of irreparable harm with no adequate remedy at law, as  
20 discussed in detail in his Petition for Writ of Habeas Corpus;

21 (b) The balance of harm favors the movant while these proceedings are pending, and his  
22 remaining at the Northwest Detention Center (or upon his release) would avoid the  
23 deleterious effects of shuttling; and,

1 WHEREFORE, for the reasons set forth in the contemporaneously filed Petition for  
2 Writ of Habeas Corpus, and in this motion, the Petitioner respectfully requests this  
3 Court:

- 4 A. Grant this Emergency Motion for Temporary Restraining Order and Stay of  
5 Removal today, December 9, 2019;  
6  
7 B. Enter the Proposed Order Granting Petitioner's Emergency Motion for  
8 Temporary Restraining Order and Stay of Removal today; and  
9  
10 C. Grant such other and further relief as justice may require.

11 Respectfully submitted this 10<sup>th</sup> day of December, 2019,

12  
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